

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FEDERAL RELATIONS, ENERGY, AND TELECOMMUNICATIONS

Call to Order: By **CHAIRMAN ALAN OLSON**, on January 19, 2005 at
3:00 P.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Alan Olson, Chairman (R)
Rep. Dave Gallik, Vice Chairman (D)
Rep. Dennis Himmelberger, Vice Chairman (R)
Rep. Robyn Driscoll (D)
Rep. George G. Groesbeck (D)
Rep. Robin Hamilton (D)
Rep. Hal Jacobson (D)
Rep. Harry Klock (R)
Rep. Mark E. Noennig (R)
Rep. John Parker (D)
Rep. Diane Rice (R)
Rep. Wayne Stahl (R)
Rep. Karl Waitschies (R)
Rep. Brady Wiseman (D)

Members Excused: None.

Members Absent: None.

Staff Present: Todd Everts, Legislative Branch
Cynthia Peterson, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed. Tape stamp markers follow testimony.

Committee Business Summary:

Hearing & Date Posted: HJ 4, 1/13/2005; HB 121, 1/13/2005
Executive Action: None.

HEARING ON HJ 4

Opening Statement by Sponsor:

REP. JIM PETERSON, HD 30, opened the hearing on **HJ 4**, a bill which would urge the Montana Congressional Delegation to support legislation requiring the U.S. Corps of Engineers to increase and maintain a minimum pool elevation in Fort Peck Reservoir. **REP. PETERSON** identified the water level at Fort Peck Reservoir at 2,198.9 on December 31, 2004, which is approximately 38-40 feet below mid-pool. The water level dropped by eight feet in 2004. **REP. PETERSON** spoke about the adverse impacts the drop in water level has had on irrigation, recreation, fisheries, and other unintended consequences. **REP. PETERSON** suggested managing the water in the lake at mid-pool would still allow for adequate flood control. **REP. PETERSON** relayed the support of the Governor and the Montana Association of Counties for HJ 4.

Proponents' Testimony:

Don Pfau, Fort Peck Advisory Committee, testified that there is a disaster occurring at Fort Peck Reservoir. **Mr. Pfau** depicted the reservoir as a huge mud hole, and stated domestic livestock, as well as wildlife, are getting stuck in the mud. **Mr. Pfau** calculated that water is coming into the reservoir at 35 cubic feet per second (cfs) and leaving at 6,000 cfs. **Mr. Pfau** claimed that businesses in Lewistown, Glasgow, Winnett, Malta, Circle, and Jordon have many businesses related to the operation of the Fort Peck Reservoir. **Mr. Pfau** stated many of these businesses are barely hanging on. **Mr. Pfau** hopes HJ 4 will allow Montana to keep more water in Fort Peck Reservoir.

EXHIBIT(feh14a01)

Bob Gilbert, Walleyes Unlimited of Montana, strongly supports HJ 4. Mr. Gilbert depicted the situation on Fort Peck Reservoir as a travesty.

Jeff Hagener, Montana Department of Fish, Wildlife and Parks (FWP), submitted written testimony as a proponent of HJ 4.

EXHIBIT(feh14a02)

Mike Volesky, Governor's Office, reiterated support for HJ 4.

Connie Eissinger, McCone County Commissioner and a member of the six-county Fort Peck Board, explained that in the past they have been successful in receiving federal appropriations to upgrade

roads to an all-weather status. **Ms. Eissinger** suggested building roads to a lake that is nothing but mud does not make sense.

John Prinkki, Carbon County Commissioner and Second Vice President of Montana Association of Counties (MACo), stated MACo passed a similar Resolution at its annual meeting in 2004.
{Tape: 1; Side: A; Approx. Time Counter: 12.8 - 13.3}

Bill Spoja, an attorney from Lewistown, sees an opportunity for the people of Montana to pull together on an important issue. **Mr. Spoja** urged the committee to make a positive decision on HJ 4.

Vickie Delger, Roosevelt County Commissioner, testified that she is in favor of HB 4.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

REP. DAVE GALLIK asked where the level is currently in Fort Peck Reservoir. **REP. PETERSON** responded the current level is 2,198.9. **REP. GALLIK** asked how quickly the water level is receding. **REP. PETERSON** replied the lake level dropped by eight feet during 2004, and that by February 2005, the level will be one and one-half feet lower than it was on December 31, 2004. **REP. GALLIK** asked **REP. PETERSON** if he had spoken to the Congressional Delegation and wondered when Montana could anticipate sponsorship of the legislation. **REP. PETERSON** stated he had spoken with the members of the Congressional Delegation on numerous occasions and are encouraging them to introduce legislation. **REP. PETERSON** explained initially the delegation had attempted to resolve the issue administratively by working with the Corps of Army Engineers, but that effort has been unsuccessful. **REP. PETERSON** is hopeful HJ 4 will assist them in getting legislation introduced. **REP. PETERSON** added he had not received a commitment from any of the members, but that he was comfortable something would be done.

Closing by Sponsor:

REP. PETERSON closed the hearing by stating he had a conversation with the owner of a recreational facility who invested all of his money into his business, which has now been closed for two years.

REP. PETERSON stated two of the four marinas at Fort Peck will be closed this year.

HEARING ON HB 121

Opening Statement by Sponsor:

REP. CAROL LAMBERT, HD 39, opened the hearing on HB 121, which would revise net metering laws. **REP. LAMBERT** explained net metering is a manner in which electricity is measured. **REP. LAMBERT** suggested this would be a big issue in the future. **REP. LAMBERT** believed the co-ops and Montana Dakota Utilities (MDU) should be governed under the law. **REP. LAMBERT** stated she would be offering amendments to HB 121.

Proponents' Testimony:

Allan Hardtke, Billings, has recently become involved in the alternate energy business. **Mr. Hardtke** has found it frustrating that Montana does not receive any federal money for wind and solar energy. **Mr. Hardtke** testified current laws only govern about one-third of the population of Montana. **Mr. Hardtke** explained most co-ops have a monthly net metering agreement, although it can vary among co-ops.

{Tape: 1; Side: B}

Mr. Hardtke gave several examples of net metering, the barriers involved, and how those efforts benefit co-ops rather than those who are trying to save energy costs. **Mr. Hardtke** attempted to get money for alternative energy from the Farm Bill, and explained the process was very competitive. **Mr. Hardtke** testified Montana did not receive any of those funds. **Mr. Hardtke** would like to see federal money come into Montana to help farmers and ranchers. **Mr. Hardtke** submitted testimony that was presented to the Federal Energy Regulatory Commission, as well as a copy of electronic correspondence between Tom Starrs and Dave Ryan dated November 30, 2004.

EXHIBIT(feh14a03)

EXHIBIT(feh14a04)

Charles Day, a resident of Gallatin County, supports net metering for the entire state of Montana. **Mr. Day** stated there is tremendous value in having a uniform net metering set of arrangements. **Mr. Day** testified that net metering is straightforward and would not be difficult to implement. **Mr. Day** believed the tradition of the co-ops should be respected. **Mr.**

Day suggested people would get on board once they realize what net metering can do for them. **Mr. Day** clarified that people who net meter need a functioning, upgraded grid. **Mr. Day** strongly supported net metering for the entire state.

Dave Ryan, National Center for Appropriate Technology, is a strong proponent for renewable energy and believed net metering is a tool to encourage renewable energy. **Mr. Ryan** addressed the safety and utility administration aspects of net metering. **Mr. Ryan** pointed out that net metering is not a sale of electricity, and checks are not written to the customer for excess generated energy. In addition, net metering can be an exceptional benefit in irrigation since a customer can generate in the winter and use the energy in the summer.

Ed Diemert, Liberty County Commissioner, stated Liberty County has a net metering agreement with Northwest Energy (NWE) and that many farmers and ranchers in his area are interested in installing turbines on a net-metering basis.

Greg Jergeson, Chairman of the Montana Public Service Commission (PSC), stated the PSC has adopted a carefully nuanced position on the bill. **Commissioner Jergeson** stated on a 4-1 vote, the PSC agreed to support the bill insofar as it extends the net metering provisions that are enjoyed by customers of NWE to that which should be enjoyed by the customers of MDU. **Commissioner Jergeson** stated because the electric co-ops are non-jurisdictional to the PSC, they did not take a position on Section 2 of HB 121. **Commissioner Jergeson** identified the principle by which the co-ops are non-jurisdictional as being very strong. **Commissioner Jergeson** emphasized that disagreement among the Commissioners should not be viewed as a weakness; rather, it should be noted that those disagreements strengthen the PSC as a whole. **Commissioner Jergeson** believed MDU is a well-managed company, but would like to engage them in a dialogue centering around conservation and demand-site management. **Commissioner Jergeson** suggested HB 121 could be the first step in initiating that conversation.

Ann Gravatt, Renewable Northwest Project (RNP), provided background information on RNP. **Ms. Gravatt** testified RNP would like to see uniform net-metering standards in Montana and for Montana to keep in step with Washington and Oregon. **Ms. Gravatt** would like to see consistent state-wide standards for all customers.

Patrick Judge, Montana Environmental Information Center (MEIC), submitted a map depicting net-metering programs nationwide.
[EXHIBIT\(feh14a05\)](#)

Chuck McGraw, Natural Resources Defense Council, supported the legislation, and read the legislative findings contained in the existing statute at § 601. **Mr. McGraw** thought the findings were good public policy.

{Tape: 2; Side: A}

Opponents' Testimony:

Gary Wiens, Montana Electric Cooperatives' Association, submitted written testimony in opposition to HB 121.
[EXHIBIT\(feh14a06\)](#)

Jasen Bronec, Montana Electric Cooperatives' Association, submitted written testimony in opposition to HB 121. **Mr. Bronec** also submitted written testimony from Doug Nelson, Mad Wolf Ranch, LLC; and, William S. Morris, Town of Browning.
[EXHIBIT\(feh14a07\)](#)
[EXHIBIT\(feh14a08\)](#)
[EXHIBIT\(feh14a09\)](#)

Doug Hardy, Montana Electric Cooperatives' Association, submitted written testimony in opposition to HB 121.
[EXHIBIT\(feh14a10\)](#)

Tim Gregori, Southern Montana Electric Generation and Transmission Cooperative (Southern Montana GMT), testified that Southern Montana GMT supports alternative energy development, renewable resources, and conservation. **Mr. Gregori** suggested the problem is not with technology; the problem is ending up with a cross-subsidy between the rate classes. **Mr. Gregori** also had concern about ending up with a positive energy imbalance which could result in selling power for less than what you paid for it. **Mr. Gregori** summarized by stating Southern Montana GMT makes a significant amount of purchases from the Bonneville Power Administration, and their wholesale rates are different every month, and that the rates can also be different twice a day. **Mr. Gregori** noted there are a number of energy bills being contemplated. **Mr. Gregori** thought the legislature should take more of a comprehensive look at net metering and alternative resources and come up with an integrated resource plan that contemplates the amount of these particular resources and how they should be interconnected.

John Alke, MDU, testified in 1997, MDU stated it did not want to be deregulated and wanted to be exempt. **Mr. Alke** stated in 1999, when the net metering bill was passed, it was included in the restructuring act and did not apply to MDU.

{Tape: 2; Side: B}

Mr. Alke noted that MDU has offered a net-metering option for 20 years, but has no customers on it. **Mr. Alke** submitted an example of net metering for a 50 KW facility, as well as the billing options offered by MDU.

[EXHIBIT \(feh14a11\)](#)

Informational Testimony:

Mike Pichette, Northwestern Energy, stated if in the committee's deliberations, it considers an amendment that would reestablish the stricken language on Page 2, **Mr. Pichette** would be available to explain why such an amendment would be a good idea.

Dan Flynn, International Brotherhood of Electrical Workers (IBEW), submitted written testimony in opposition to HB 121.
[EXHIBIT \(feh14a12\)](#)

Questions from Committee Members and Responses:

REP. WISEMAN stated it is his understanding HB 121 would pull MDU into the net metering scheme enjoyed by NWE customers, and asked Commissioner Jergeson to direct him to that language in the bill. Commissioner Jergeson directed **REP. WISEMAN** to the inclusion of 69-8-601 on page 3.

REP. GROESBECK wanted to know how many net metering customers currently exist that go through rural co-ops. **Mr. Wiens** estimated there was 10-12 customers. **REP. GROESBECK** asked of those 10-12 customers, how many were at the 50 KW threshold. **Mr. Wiens** replied that they do not allow 50 KW under their current policies. **REP. GROESBECK** then asked how many were at the 10 KW level. **Mr. Wiens** referred the question to **Mr. Bronec**, who replied Glacier Electric Co-op currently has six 10 KW units, and the Park Co-op has one.

REP. ROBIN HAMILTON asked what would be gained by including small co-ops in HB 121. **Mr. Judge** replied it would provide an important message to potential generators and help them to invest in all renewable energy systems. **Mr. Judge** referenced the

success of other states and stated he believed the problems brought up by the opponents were problems which could be managed.

REP. WISEMAN asked **Ms. Gravatt** to speak about state-wide net metering in Washington and Oregon and asked if those states had a lot of rural co-ops. **Ms. Gravatt** replied in Oregon 20 percent of the load is served by a combination of public utilities and co-ops. **REP. WISEMAN** asked how common net metering systems are in those states. **Ms. Gravatt** did not have the exact figure, but believed it was larger than the number served in Montana. **REP. WISEMAN** redirected the question to Mr. Ryan, but he did not have an exact number.

REP. HAL JACOBSON asked Mr. Judge to respond to the safety concerns. **Mr. Judge** thought it would be important to have strict interconnection and engineering standards that would apply. **Mr. Judge** thought these concerns had been addressed by the industry and that there was a successful record in Montana and other states. **REP. JACOBSON** redirected the question to Mr. Bronec, who stated the co-ops take safety very seriously. **Mr. Bronec** stated the fact that electronic equipment fails cannot be negated. **Mr. Bronec** explained OSHA requires a visual open on each source of generation. **Mr. Bronec** also suggested human error could be a safety factor.

REP. GALLIK asked Mr. Pichette if there had been a noticeable increase in industrial accidents as a result of net metering being on NWE's system. **Mr. Pichette** did not readily have the answer, but offered to obtain an answer to **REP. GALLIK'S** question.

REP. GROESBECK confirmed that MDU customers in Montana have had the option of net metering for 20 years, but there currently are no net metering customers. **Mr. Alke** confirmed that is the case. **Mr. Alke** commented that the most likely application of an intermittent generator is irrigation, and MDU does not have much irrigation load.

CHAIRMAN OLSON asked Mr. Robert Evans, **Fergus Electric**, how many meters per mile are on the Fergus system. **Mr. Evans** replied there are approximately 1.2 members and 1.8 meters per mile. **CHAIRMAN OLSON** asked Mr. Pichette how many meters per mile are on the NWE distribution system. **Mr. Pichette** did not have the exact number, but suggested it was many more than what was on the Fergus Electric system. **Mr. Pichette** offered to obtain that figure for the record.

CHAIRMAN OLSON asked Mr. Bronec if HB 121 came to fruition and a lineman for the co-op was required to go out and do a visual, whether the individual at the net metering system would be required to pay for the inspection. **Mr. Bronec** replied it would definitely become a cost issue to the co-op, and that it would be up to the board to decide how it would distribute that cost. **Mr. Bronec** cautioned it could add up to a tremendous cost.

Closing by Sponsor:

REP. LAMBERT closed the hearing by stating net metering is the way of the future. **REP. LAMBERT** stated she would have amendments to propose during executive action on HB 121.

ADJOURNMENT

Adjournment: 4:45 P.M.

REP. ALAN OLSON, Chairman

CYNTHIA PETERSON, Secretary

AO/cp

Additional Exhibits:

EXHIBIT ([feh14aad0.TIF](#))